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10/725,673	12/03/2003	Jordan Cohen	112855.121 US3	5522
23483	7590	08/19/2008	EXAMINER	
WILMERHALE/BOSTON			DAO, MINH D	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

michael.mathewson@wilmerhale.com  
teresa.carvalho@wilmerhale.com  
sharon.matthews@wilmerhale.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/725,673	<b>Applicant(s)</b> COHEN ET AL.	
	<b>Examiner</b> MINH D. DAO	<b>Art Unit</b> 2618	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4-6,8-14,16 and 18-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-6,8-14,16 and 18-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

In response to applicant's argument that there is no suggestion to combine the Shah and Carroll references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Carroll teaches what is missing in Shah and that is “activating and deactivating enhanced features through a wireless transceiver circuit and by a transmitted key that was sent by a remote source to that mobile voice communication device” so that the combined system can receive most updated additional software or programs through an activation wirelessly done by the service provider.

1. Applicant's arguments filed 05/15/08 with respect to the rejection(s) of claim(s) 1, 3 under Wheeler have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Treyz et al. (US 6,526,335).

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 4-6, 8-14, 16, 18-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah (US 6,029,065) in view of Carroll et al. (US 8,859,699) and further in view of Treyz et al. (US 6,526,335).

Regarding claim 1, Shah teaches a mobile voice communication device comprising: a wireless transceiver circuit for transmitting and receiving voice communications and for receiving data (see figs. 1-5); a digital processor (see figs.1-3); and a memory storing application program code which when executed on the digital processor causes the mobile voice communication device to provide predetermined functionality to the user of the cellular phone, said predetermined functionality having basic features, said application program code having a deactivated state in which the mobile voice

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communication device provides said basic features to the user (see figs. 1-5; col. 11, line 38 to col. 12, line 22). In this case, the state before the base station 200 activates the Enhanced Vocoder feature of the mobile reads on the deactivate state of the present invention. However, Shah does not disclose activating and deactivating enhanced features through a wireless transceiver circuit and by a transmitted key that was sent by a remote source to that mobile voice communication device. Carroll, in an analogous art, teaches a Network-based method and system for distributing service data for various types of service processes and models, including software applications, specifications, user's manuals, or parameters, etc, over a data transmission network. A remote service provider maintains a database of the data. The database is updated frequently. The remote service provider generates an activation code based on a product code submitted by a valid user. The activation code is then sent to the user for activating the downloaded service data (see figs. 1,2; col. 7, line 60 to col. 8, line 9). Therefore, it would have been obvious to one of ordinary skilled in the art at the time of the invention was made to provide the above teaching of Carroll to Shah in order for the combined system to receive most updated additional software or programs through an activation done by the service provider as taught by Carroll.

Still regarding claim 1, Shah and Carroll do not mention having multiple levels of speech recognition in his peripheral (basic and enhanced levels or of toggling between multiple levels of speech recognition. Treyz, teaches a wireless communication system that can implement interaction of cellular communication system. The system is capable

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of providing user selections between voice recognition levels such as being able to select different languages to use during voice control (see abstract; summary of invention; figs. 1,2, 95, 96; col. 73, line 13 to col. 74, line 7). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the above teaching of Treyz to Shah and Carroll in order to obtain a system as recited in claim 1 for the purpose of allowing user to speak in their native language when using the voice recognition function as taught by Treyz.

Regarding claim 4, the combination of Shah, Carroll and Treyz teaches the transmitted key is an activation key that switches the application program code from the deactivated state to the activated state (see Shah, figs. 1-5; col. 11, line 38 to col. 12, line 22).

Regarding claim 5, the combination of Shah, Carroll and Treyz teaches the transmitted key uniquely identifies the selected device among the plurality of wireless communication devices (see Shah, col. 8, lines 17-48. Also see Treyz , col. 73, line 13 to col. 74, line 7).

Regarding claim 6, the claim includes limitations as that of claim 1, and therefore is interpreted and rejected for same reason set forth in the rejection of claim 1. In addition, Shah and Treyz also obviously teaches establishing an account for each of a plurality of wireless voice communication device as it is a basic step of obtaining a cellular phone

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account to which user pays basic and optional features (also see figs. 1,2; col. 7, line 60 to col. 8, line 9 of Carroll. Also see Treyz for clarification).

Regarding claim 14, the claim includes limitations as that of claim 6, and therefore is interpreted and rejected for same reason set forth in the rejection of claim 6.

Regarding claim 8, the combination of Shah, Carroll and Treyz teaches the first state is the activated state and the second state is the deactivated state (see Shah, figs. 1-5; col. 11, line 38 to col. 12, line 22. Also see Treyz for clarification).

Regarding claim 9, the combination of Shah, Carroll and Treyz teaches prior to selecting one of the plurality of wireless communication devices on which to send the key, sending a message to the selected device for notifying a user that the enhanced features are available after a trial period for a fee as this is a well known marketing strategy of cellular service providers (see figs. 1,2; col. 7, line 60 to col. 8, line 9 of Carroll. Also see Treyz for clarification).

Regarding claim 10, the claim is a duplicate of claim 8, and therefore is rejected for the same reason set forth in the rejection of claim 8.

Regarding claim 11, the combination of Shah, Carroll and Treyz teaches that the key is an activation key that uniquely identifies the selected device among the plurality of

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wireless communication devices (see Shah, col. 8, lines 17-48. Also see Treyz for clarification).

Regarding claim 12, it is well known in the art that users are monthly billed for basic and upgraded or enhanced features.

Regarding claim 13, , the combination of Shah, Carroll and Treyz teaches prior to selecting one of the plurality of wireless communication devices on which to activate the enhanced functionality, sending a message to that device providing notification of the availability of the enhanced features for a fee (see Shah, col. 11, line 38 to col. 12, line 22. Also see Treyz for clarification).

Regarding claim 16, the rejections of claims 1 and 3 are herein incorporated.

Regarding claims 18,19,20,21,22, examiner takes official notice that the limitations recited in the claims are well known in the art. Also see Treyz for clarification.

Regarding claim 23, the rejection of claim 6 is herein incorporated.

Regarding claim 24, the combination of Shah, Carroll and Treyz teaches the digital key is transmitted by at least one of a carrier and a service provider (see Shah, figs. 1-5; col. 11, line 38 to col. 12, line 22. Also see Treyz for clarification).



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Regarding claim 25, , the combination of Shah, Carroll and Treyz teaches he digital key corresponds to at least one of a password and an encrypted key (see Shah, figs. 1-5; col. 11, line 38 to col. 12, line 22).

Regarding claim 26, the combination of Shah, Carroll and Treyz teaches the enhanced functionality is activated by a carrier associated with the mobile communication device (see figs. 1,2; col. 7, line 60 to col. 8, line 9 of Carroll. Also see Treyz for clarification).

Regarding claims 27-32, the rejection of claim 9 is herein incorporated.

Regarding claim 33, the rejection of claim 16 is herein incorporated.

Regarding claims 34-36,39, examiner takes official notice that the limitations recited in the claims are well known in the art.

Regarding claim 37, the rejection of claim 24 is herein incorporated.

Regarding claim 38, the rejection of claim 25 is herein incorporated.

Regarding claim 40, the rejection of claim 27 is herein incorporated.

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Regarding claim 41, the rejection of claim 28 is herein incorporated.

Regarding claim 42, the rejection of claim 29 is herein incorporated.

Regarding claim 43, the rejection of claim 30 is herein incorporated.

Regarding claim 44, the rejection of claim 31 is herein incorporated.

Regarding claim 45, the rejection of claim 32 is herein incorporated.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MINH D. DAO whose telephone number is 571-272-7851. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MATTHEW ANDERSON can be reached on 571-272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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